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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,579	08/04/2003	David Roth	63573-5001	6979

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT PAPER NUMBER

3611

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,579

Applicant(s)

ROTH ET AL.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 27-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-22 is/are rejected.
- 7) ☒ Claim(s) 23-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/4/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of invention II; drawn to claims 9 – 26 and further election of species D; drawn to the battery system of figure 29i and applicants withdrawing of claims 1 – 8 and 27 – 30 in the reply filed on 11/8/04 is acknowledged. However, applicant failed to disclose which claims read on the elected species D and further applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, therefor the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

3. Applicant is advised that should claim 11 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 18 – 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18, line 3, the term “the motor” is indefinite because it is unclear which motor the applicant is referring to; i.e.; the motor cited in independent claim 9 or the second motor.

Regarding claims 18 and 19, lines 1-2, the terms “the transmission *mechanism*” are indefinite because it is unclear if applicant is referring to the transmission system cited in independent claim 9 or is referencing a mechanism of a transmission.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 9 and 13 – 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lan '652.

Lan shows a scooter comprising a standing platform 6 supported by a fuselage (figure 5) and having a rear wheel rotatably mounted at a rear portion of the fuselage 4 with a transmission system mounted under the standing platform in the rear portion of the fuselage (figure 2), wherein the transmission system comprising a motor with a wheel engagement element being operatively coupled with the rear wheel (figure 2, column 1, line 19-20) and wherein the fuselage is tubular in shape with a U-shaped cross-section, such that a floor pan portion has a shape and

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the battery system comprises a battery that is shaped to conform to the shape of the floor pan and mounted in the fuselage under the standing platform.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 – 12 and 17 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lan '652 in view of Tiede '044.

Lan discloses a motor propelled two wheeled vehicle (scooter) having a transmission system comprising a motor and wheel engagement element operatively coupled with the rear wheel which has a sidewall and mounted under a standing platform in the rear portion of a fuselage (figure 6), but failed to disclose the wheel engagement element being a cone engaging the sidewall of the rear wheel and failed to disclose a second parallel motor and wheel engagement element with the motor shaft being parallel with a longitudinal axis of the fuselage.

Tiede shows a motor propelled two wheeled vehicle that incorporates a transmission system having parallel motors and wheel engagement elements, wherein the motor is mounted so that the shaft is parallel with a longitudinal axis running from a front portion to a rear portion of a fuselage component and wherein the wheel engagement element is a cone shape which engages the sidewall of the wheel, where the transmission mechanism (system); as best understood, includes a hinged mechanism (figure 5, column 1) which controls the contact between the wheel

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engagement element and the wheel, wherein the hinged mechanism is operable by a cable to control the contact between the wheel engagement element and the wheel by normally positioning the hinged mechanism in an engaged or disengaged state (column 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the transmission system of Lan motor driven scooter with an alternative drive means to drive the wheel of the vehicle, such like the drive means as shown by Tiede parallel mounted and hinged controlled transmission system utilizing cone shaped wheel engagement elements as taught by Tiede transmission system to drive a wheel.

Allowable Subject Matter

10. Claims 23 – 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yamawaki '202, Tsai '339, Patmont '452, Endo et al '058, Alber '439 and Sauve '667 show various motorized scooters having a standing platform supported by a fuselage.

Schugt et al '379 shows a motorized vehicle having a transmission system that includes a tachometer system.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is **703 - 305 - 0838**.

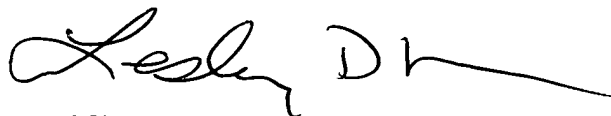
The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on **703 - 308 - 0629**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In the near future; because of a pending move of the examining corps to a new campus, the examiner and SPE telephone numbers will change to **571 - 272 - 6655** and **571 - 272 - 6651**; respectively.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.



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